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TROJAN LAW OFFICES Beverly Hills	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	NORTHERN DIS	TES DISTRICT COURT TRICT OF CALIFORNIA FRANCISCO CASE NO. CV08-0863 MHP PHOENIX SOLUTIONS, INC.'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT RE: DEFENDANT WELLS FARGO BANK, N.A.'S AFFIRMATIVE DEFENSES ALLEGING INEQUITABLE CONDUCT Date: November 10, 2008 Time: 2:00 p.m. Hon. Marilyn H. Patel
		ouagment for inequitable conduct	

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Plaintiff's Notice of Motion for Summary Judgment re: Inequitable Conduct

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on November 10, 2008, at 2:00 p.m., or as soon as counsel may be heard by the above-entitled Court, in the courtroom of the Honorable Marilyn H. Patel, Plaintiff Phoenix Solutions, Inc. ("Phoenix") will and hereby does move the Court for an order granting summary judgment on Wells Fargo Bank, N.A.'s ("Wells Fargo") affirmative defenses alleging inequitable conduct.

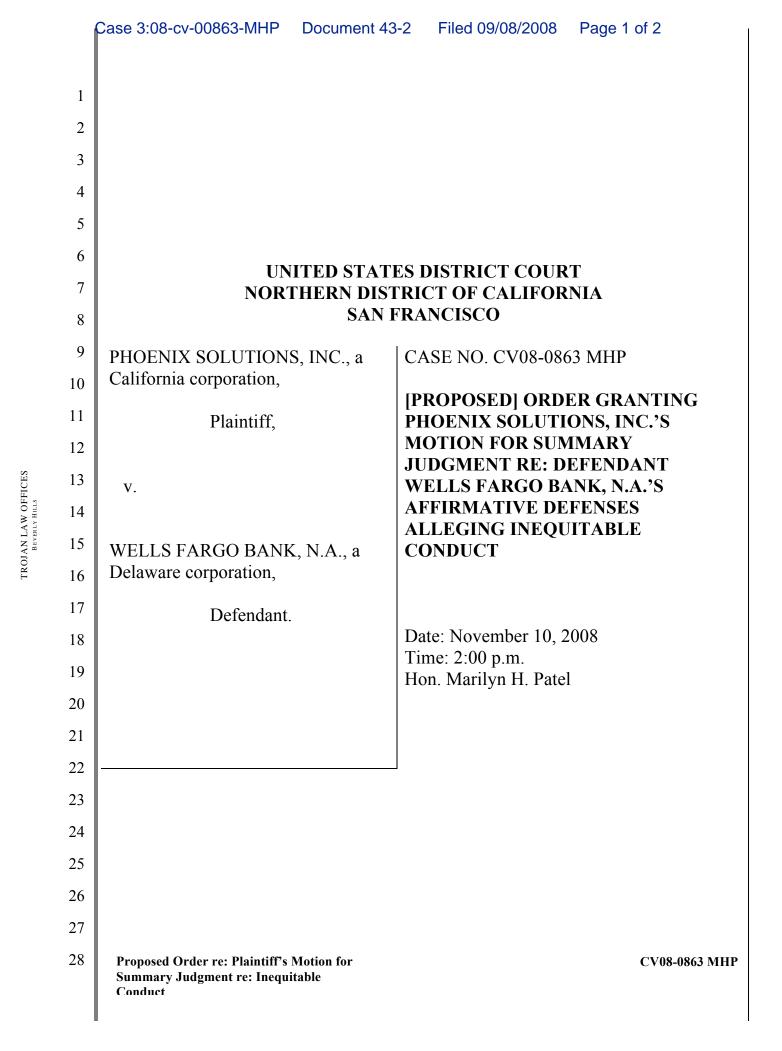
This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, and Declaration of R. Joseph Trojan and Exhibits attached thereto, the Proposed Order Granting Plaintiff's Motion for Summary Judgment, all pleadings and papers on file in this action, and upon such other matters as may be presented to the Court at the time of hearing.

Respectfully submitted,

TROJAN LAW OFFICES By

/s/R. Joseph Trojan

R. Joseph Trojan	
Attorneys for Plaint	iff,
Phoenix Solutions, l	nc.



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This matter came before the Court on motion brought by Plaintiff Phoenix Solutions, Inc. ("Phoenix") for summary judgment on Wells Fargo Bank, N.A.'s ("Wells Fargo") affirmative defenses alleging inequitable conduct.

The Court, having considered all papers and oral arguments in support thereof, and in opposition thereto, finds that Phoenix is entitled to judgment as a matter of law, and for good cause appearing,

IT IS HEREBY ADJUDGED, ORDERED AND DECREED:

- 1. Wells Fargo's Thirty-Fifth Affirmative Defense is dismissed with prejudice.
- 2. Wells Fargo's Thirty-Sixth Affirmative Defense is dismissed with prejudice.
- 3. Wells Fargo's Thirty-Seventh Affirmative Defense is dismissed with prejudice.
- 4. Wells Fargo's Thirty-Eighth Affirmative Defense is dismissed with prejudice.

Dated: Hon. Marilyn H. Patel United States District Court Judge

Presented by: Trojan Law Offices

/s/Dylan C. Dang

Dylan C. Dang 24

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> Proposed Order re: Plaintiff's Motion for **Summary Judgment re: Inequitable** Conduct

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CV08-0863 MHP